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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,283	09/22/2004	David Long	10100.0001US	3673
34284	7590	10/31/2005	EXAMINER	
ROBERT D. FISH RUTAN & TUCKER LLP 611 ANTON BLVD 14TH FLOOR COSTA MESA, CA 92626-1931				MARCANTONI, PAUL D
		ART UNIT		PAPER NUMBER
		1755		

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/509,283	LONG ET AL.
	Examiner	Art Unit
	Paul Marcantoni	1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pennell '285, Pratt et al., '777, Gaidis et al. '734, Cook et al. '633, MacDonald '352, Levina et al. (abstract only), Yasumura (JP 60133399-abstract only), Tsuji et al. (JP 49023450-abstract only), Butt et al. (abstract only) alone or in view of Ashimov et al. (abstract only).

Pennell teaches waste materials such as hairdressing wastes (inclusive of shampoo and soaps) as well as soap manufacture wastes (also inclusive of shampoo and soaps-see list in col.7) are used as additives in the manufacture of Portland cement. One of ordinary skill in the art would have understood soap is notoriously known in the art as an air entrainer for cement or concrete. Further, shampoo is essentially liquid soap and thus one of ordinary skill in the art would have understood soap or shampoo are air entrainers which would have been obvious to one of ordinary skill in the art.

Pratt et al. teach that the use of resin soaps (which are derived from "waste" matter of natural origin-see col.1, lines 55-56) are old in the art as air entrainers for cementitious compositions such as plaster. Resin soaps are routinely added in the art to cement compositions as air entrainers.

Gaidis et al. teach it is old in the art to use resin soaps as air entrainers. Again, resin soaps are derived from waste matter of natural origin and thus are waste materials (col.6, lines 10-15).

Cook et al. teach making concrete by using soap solution (liquid waste) as an air entrainer. Cook et al. even teach how the density dropped from 1360 to 1300 kg/cubic meter by using this soap solution. This is a result of air entrainment which is well known to reduce density of the final cement product.

McDonald also teach soaps are old in the art as air entrainers fro cement mixtures (see col.1, lines 50-58).

Levina et al. teach the use of soap manufacturing waste to make concrete. Soap waste contains residue of soap which already is old in the art and known as an air entrainer and thus meets the limitation of applicants' claimed invention.

Yasumura (JP '399) teach soap solution wastewater is used to make a cement body and thus this also meets applicants' claimed invention (see abstract).

Tsuji et al. (JP '450) teach soap waste water is used for mixing with Portland cement to form a cement product and thus meets applicants' claimed limitations.

Butt et al. teach mixing waste sulfate soap into a cement mix to make a final cement product and thus meets applicants' claimed invention.

Finally Asimov et al. teach that the use of soap for all the primary references is old in the art as an air entrainer and any use of soap in cement would naturally function as an air entrainer because that is how it functions in a cement slurry as shown by this reference and the prior art above.

Claims 4, 8,13, 15, and 22 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

The term fragrance in claim 4 is not understood and appears vague. Do applicants mean soap or shampoo?

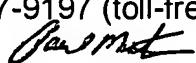
The terms "materials not meeting specifications, expired product and discontinued product" are not entirely clear in claim 13. The examiner has interpreted this to simply mean any soap waste or shampoo waste or discarded soap/shampoo.

The terms "adapted to be" is suggested to be deleted in claim 8.

In claim 15, the term "comprising essentially of" is indefinite. This has to be either comprising or consisting essentially of but a combination of terms is not acceptable.

The term "calcined shampoo waste" is vague in claim 22. What temperature range is the shampoo waste calcined? Further, the basic properties of foaming and air entrainment for shampoo would appear not to be affected even by this minimal heating.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Paul Marcantoni
Primary Examiner
Art Unit 1755